

CLERK'S OFFICE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED

AT ALBUQUERQUE NM

APR 8 1999

JOHNNY RAY CHANDLER,

Plaintiff,

ROBERT M. MARCH
CLERK

v.

No. CIV-99-0086 BB/DJS

DAVID LANDAU,
DR. HARVEY,
ELEANOR VAN INWEGEN,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter is before the Court *sua sponte* to consider Plaintiff's Motion for Reconsideration Pending Appeal (Doc. #9) filed March 30, 1999. The motion seeks relief from the order entered March 19, 1999, which denied Plaintiff's motion for leave to proceed in forma pauperis ("IFP") based on the "three strikes" provisions in 28 U.S.C. § 1915(g). In denying Plaintiff IFP status, the Court took notice of three previous actions filed by Plaintiff which, prior to enactment of § 1915(g), were dismissed pursuant to the provisions of former 28 U.S.C. § 1915(d). Plaintiff now argues that denial of IFP based on dismissals prior to enactment of § 1915(g) gives prohibited retroactive effect to the statute. To the contrary, as expressly ruled by the Court of Appeals for the Tenth Circuit, "§ 1915(g) requires us to consider prisoner suits dismissed prior to the statute's enactment." *Green v. Nottingham*, 90 F.3d 415, 420 (10th Cir.1996). The motion will be denied.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Reconsideration Pending Appeal (Doc. #9) filed March 30, 1999, is DENIED.


UNITED STATES DISTRICT JUDGE

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